

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**CIERRA HUNTER**  
Claimant

**APPEAL NO: 21A-UI-15580-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 06/14/20**  
**Claimant: Appellant (6)**

PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 28, 2021, (reference 05) unemployment insurance decision that concluded she was overpaid \$3,600 in Federal Pandemic Unemployment Compensation (FPUC) benefits. After proper notice, a telephone hearing was conducted on September 1, 2021. The claimant did not respond at the telephone number she provided to the Appeals Bureau. No hearing was held.

**ISSUE:**

Should the appeal be dismissed based on the appellant's failure to appear and participate?

**FINDINGS OF FACT:**

Iowa Workforce Development notified claimant of the hearing. The claimant did not answer at the telephone number she provided to the Appeals Bureau. Claimant did not participate in the hearing or request a postponement. The claimant did not follow the instructions on the hearing notice. Official notice is taken of the hearing control screen to establish that claimant did not respond at the telephone number she provided to the Appeals Bureau prior to the time of the scheduled hearing.

The hearing notice instruction specifically advises claimant of the date and time of the hearing. It also states:

**IMPORTANT NOTICE!**

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

The back page of the hearing notice provides further instruction and warning:

**Failure to Participate or Register for Appeal Hearing**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7).

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the claimant, the administrative law judge left the record open for 15 minutes past the scheduled time of the hearing to give the claimant a reasonable amount of time to call the Appeals Bureau to participate.

The initial unemployment insurance concluded claimant was overpaid \$3600 in FPUC benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Iowa Admin. Code r. 871-26.14(7) provides, in relevant part:

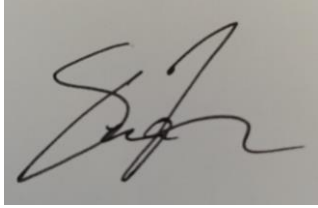
(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3).

The claimant did not respond at the telephone number he provided to the Appeals Bureau. The claimant is in default and the appeal is dismissed.

If the claimant disagrees with this decision, the claimant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

**DECISION:**

The June 28, 2021, (reference 05) unemployment insurance decision establishing an overpayment of FPUC benefits remains in effect as the appellant is in default.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is shown within a rectangular frame.

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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

September 08, 2021  
Decision Dated and Mailed

smn/mn